

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**CATHERINE L. KAMINSKI,**

**Plaintiff,**

**7:09-cv-655  
(GLS/VEB)**

**v.**

**COMMISSIONER OF SOCIAL  
SECURITY,**

**Defendant.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Conboy, McKay Law Firm  
Carthage Office  
307 State Street  
Carthage, NY 13619

LAWRENCE D. HASSELER,  
ESQ.

**FOR THE DEFENDANT:**

HON. RICHARD S. HARTUNIAN  
United States Attorney  
100 South Clinton Street  
Syracuse, NY 13261

AMANDA J. LOCKSHIN  
KIMBERLY L. SCHIRO  
RICHARD A. HILL, JR.  
Special Assistant U.S. Attorneys

Mary Ann Sloan  
Regional Chief Counsel  
Social Security Administration  
Office of General Counsel, Region II  
26 Federal Plaza, Room 3904  
New York, NY 10278

**Gary L. Sharpe  
Chief Judge**

## **MEMORANDUM-DECISION AND ORDER**

### **I. Introduction**

Plaintiff Catherine L. Kaminski challenges defendant Commissioner of Social Security's denial of Supplemental Security Income (SSI), seeking review under 42 U.S.C. §§ 405(g) and 1383(c)(3). (See Compl., Dkt. No. 1.) In a Report-Recommendation (R&R) filed February 21, 2012, Magistrate Judge Victor E. Bianchini recommended that the Commissioner's decision be affirmed and Kaminski's complaint dismissed.<sup>1</sup> (See R&R, Dkt. No. 20.) Pending are Kaminski's objections to the R&R. (See Dkt. No. 21.) For the reasons that follow, the court adopts the R&R in its entirety.

### **II. Background**<sup>2</sup>

On April 17, 2006, Kaminski filed an application for SSI under the Social Security Act. (See R&R at 2.) After her application was denied, Kaminski requested a hearing before an Administrative Law Judge (ALJ), which was held on June 23, 2008. (See *id.*) On September 16, 2008, the

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<sup>1</sup> The Clerk is directed to append the R&R to this decision; familiarity therewith is presumed. (See Dkt. No. 20.)

<sup>2</sup> The court incorporates the factual recitations of the parties and Judge Bianchini. (See *generally* Dkt. Nos. 11, 16, 20.)

ALJ issued a decision denying the requested benefits, which became the Commissioner's final determination upon the Social Security Administration Appeals Council's denial of review. (*See id.*)

Kominski commenced the present action by filing a complaint on June 5, 2009, seeking judicial review of the Commissioner's determination. (*See Compl.*) After receiving the parties' briefs, Judge Bianchini issued an R&R recommending dismissal of Kaminski's complaint. (*See generally* R&R.)

### **III. Standard of Review**

By statute and rule, district courts are authorized to refer social security appeals to magistrate judges for proposed findings and recommendations as to disposition. *See* 28 U.S.C. § 636(b)(1)(A), (B); N.D.N.Y. L.R. 40.1, 72.3(d); General Order No. 18. Before entering final judgment, this court reviews report and recommendation orders in cases it has referred to a magistrate judge. If a party properly objects to a specific element of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. *See Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484GLS, 2006 WL 149049, at \*3, \*5 (N.D.N.Y. Jan. 18, 2006). In cases where no party has filed an

objection, only vague or general objections are made, or a party resubmits the same papers and arguments already considered by the magistrate judge, this court reviews the findings and recommendations of the magistrate judge for clear error. *See id.* at \*4-5.

#### **IV. Discussion**

Kaminski purports to object to the R&R on two grounds. First, she asserts that Judge Bianchini improperly evaluated the medical evidence regarding her mental functional limitations and, second, she “objects to the failure of the Commissioner to make specific findings as to the functional limitations imposed on [her] by her diabetes.” (Dkt. No. 21 at 2-5.) The substance of both arguments, however, was previously raised in Kaminski’s brief and considered and rejected by Judge Bianchini. (See Dkt. No. 11 at 7-11; R&R at 9-17.) Kaminski’s “objections,” therefore, are general and do not warrant *de novo* review. *See Almonte*, 2006 WL 149049 at \*4. The court, having carefully reviewed the record, finds no clear error in the R&R and accepts and adopts it in its entirety.

#### **V. Conclusion**

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that Magistrate Judge Victor E. Bianchini’s February 21,

2012 Report-Recommendation and Order (Dkt. No. 20) is **ADOPTED** in its entirety; and it is further


**ORDERED** that the decision of the Commissioner is **AFFIRMED** and Kaminski's Complaint (Dkt. No. 1) is **DISMISSED**; and it is further

**ORDERED** that the Clerk close this case; and it is further

**ORDERED** that the Clerk provide a copy of this Memorandum-Decision and Order to the parties.

**IT IS SO ORDERED.**

March 15, 2012  
Albany, New York

  
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Gary L. Sharpe  
Chief Judge  
U.S. District Court